

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

AMEREN ILLINOIS COMPANY	)	
d/b/a Ameren Illinois,	)	
Petitioner	)	
	)	Docket No. 13-0075
Compliance Filing per December 5, 2012 Order in	)	
Docket No. 12-2093.	)	
	)	

**AMEREN ILLINOIS COMPANY’S RESPONSE TO STAFF’S MOTION  
TO STRIKE CERTAIN PORTIONS OF AMEREN EXHIBIT 1.0  
AND EXHIBITS 1.2 AND 1.3 IN THEIR ENTIRETY**

The testimony and exhibits to which Staff objects as irrelevant and hearsay, present the backstory to the Commission’s review of AIC’s procedures and controls on credit card usage and employee expense reporting in Docket 12-0293. These facts are helpful to the trier of fact, in that they show the limitations of the record and the parties’ review on these issues in Docket 12-0293. The context and framework provided by the challenged testimony and exhibits make them relevant. And the exhibits are not hearsay, since they are not offered for the truth of the statements contained therein. Staff’s Motion to Strike should be denied in its entirety.

**I. BACKGROUND**

In Docket 12-0293, Staff reviewed credit card expenses incurred in 2011, which had been charged to Account 909 (Information and instructional advertising) and included in AIC’s proposed formula rate electric delivery revenue requirement. The Commission concluded recovery of the costs of certain credit card purchases, in the absence of better record support, was unreasonable. Specifically, the Commission disallowed certain “questionable” credit card purchases as “arguably excessive and/or not reasonably related to the provisioning of delivery service.” *Ameren Illinois Co.*, Docket 12-0293, Order, p. 67 (Dec. 5, 2012).

The Commission’s “primary” concern was an “apparent lack of controls over [credit

card] use.” *Id.* at 69. The Commission believed that the record in Docket 12-0293 concerning the specific excluded charges suggested “AIC needs to do a better job of educating its employees on [credit card] use and setting reasonable limits on usage.” *Id.* The purpose of AIC’s compliance filing in this docket is to demonstrate that AIC has reasonable usage restrictions on employee use of corporate credit cards and has taken affirmative steps to educate its employees on internal controls that govern the usage of corporate credit cards and the reporting of credit card expenses.

The Commission’s Order in Docket 12-0293 required AIC to submit its internal controls on credit card usage to the Commission to “ensure” that AIC has implemented “reasonable usage restrictions.” *Id.* The Order required AIC to submit its internal controls within 45 days of the entry of the Order, in the form of a petition with the usage limitations and supporting testimony attached. The Order also required AIC to provide “information on its process for reviewing [employee] expense report[s] to ensure they are reviewed in a consistent manner.” *Id.*

AIC submitted its petition on January 18, 2013. Attached to the petition were the direct testimony and exhibits of Ms. Jacqueline Voiles, who is testifying in support of AIC’s controls on the usage of corporate credit cards and the process for reviewing corporate credit card transactions. Ms. Voiles also sponsors Ameren’s Employee Expense Reporting Policy (Ameren Exhibit 1.1), which governs the usage of corporate credit cards by AIC employees and the reporting and approval of business expenses charged to corporate credit cards.

Staff’s Motion to Strike, now filed almost 10 months after the Petition was filed, seeks to exclude certain portions of Ms. Voiles’ testimony (Ameren Exhibit 1.0, lines 119-136, line 139 (“and AIC’s response to Staff Data Request KC 17.01”), and lines 186-190). Staff’s Motion also seeks to exclude Ameren Exhibits 1.2 and 1.3 in their entirety. The testimony and exhibits

objected to by Staff offer these facts into the record:

- No party to Docket 12-0293 requested a copy of Ameren’s Employee Expense Reporting Policy in discovery. Had that occurred, AIC would have produced it and it could have been included in the record. (Ameren Ex. 1.0, p. 6:119-24.)
- Staff did not raise any issues in Docket 12-0293 with the controls that govern the usage of corporate credit cards and the reporting of credit card expenses. The assertion that there was “an apparent lack of controls over [credit card] usage” was raised for the first time in the Proposed Order, after the evidentiary hearing and post-hearing briefing. Thus, AIC did not have the opportunity to respond to the assertion in testimony or move the controls into the record. (*Id.* at 7:125-30.)
- AIC supplied some information in Docket 12-0293 on the procedures for corporate credit cards in response to Staff Data Request KC 17.01, which described the procedures for issuing corporate credit cards and reviewing employee expense reports. That response was not included in the record, however. (*Id.* at 7:131-36, 139; Ameren Ex. 1.2.)
- AIC also supplied some examples of business expense justifications that were included in employee expense reports in response to Staff Data Request KC 17.02. That response also was not included in the record. (Ameren Exs. 1.0, p. 9:187-10:190; 1.3.)

These background facts provide context to the Commission’s ruling in Docket 12-0293 on credit card purchases.

## II. ARGUMENT

### A. These facts relate to the Commission’s directives in Docket 12-0293.

Staff argues that the identified testimony and exhibits of Ms. Voiles are irrelevant. (Staff Motion, ¶ 4.) Staff’s underlying premise is that “relevant evidence in a Commission proceeding must be limited to **matters actually at issue** and before the Commission for determination, and also to evidence that has probative power sufficient to make the Commission’s determination of facts at issue more or less probable.” (*Id.* at ¶ 4 (emphasis in the original).) Staff’s working theory is that, because AIC “was not directed [by the Commission] to discuss what it did or did not provide parties during discovery in Docket No. 12-0293 or what those parties did with that information,” testimony on those subjects is “outside the scope of the Commission’s directive in

the 12-0293 Order and is irrelevant.” (*Id.* at ¶ 6.) That is not the correct limit of relevant facts.

The Illinois Supreme Court has observed that “[r]elevant evidence is evidence that has ‘any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.’” *Voykin v. Estate of DeBoer*, 192 Ill. 2d 49, 57 (2000) (quoting Fed. R. Evid. 401). In *Voykin*, the court ruled that evidence of the plaintiff’s prior back injury was not admissible absent expert testimony to tie the prior injury to causation, damages or any other issues of consequence in the case. *Id.*; *see also Marut v. Costello*, 34 Ill. 2d 125, 128 (1966) (cross-examination on prior neck injury not relevant to current injury or the direct examination); *People v. Barbour*, 106 Ill. App. 3d 993, 1000 (1st Dist. 1982) (evidence of prior alleged rape not relevant to issues in current rape case).

The facts concerning Docket 12-0293, to which Staff objects as irrelevant, set the stage for the Commission’s review of procedures and controls on credit card usage and employee expense reporting in this proceeding. They concern the prior record evidence and prior review of the same issues at issue here. They provide necessary and helpful context to the Commission’s prior decision that bear upon the same issues in this docket.

For example, the Commission questions whether there are sufficient controls in place. Our point is, yes there are *and they have been* as detailed in the Ameren’s Employee Expense Reporting Policy, which was available to any party in Docket 12-0293. It would seem perfectly reasonable to inform the Commission of the availability of this policy. Similarly, the procedures for issuing corporate credit cards and reviewing employee expense reports is not a novelty decided upon yesterday. If the Commission is to pass judgment on AIC’s corporate credit card policy, at the very least it should be informed as to its history. The record evidence in a prior Commission proceeding—or, in this case, the lack thereof—is of consequence to a subsequent

Commission proceeding in which the same issue is under consideration. The matter at issue here is whether AIC has reasonable controls on employee use of corporate credit cards. Staff provides no support for its theory that AIC is barred from discussing these facts simply because Commission did not expressly direct AIC to discuss them. That the Commission did not review AIC's controls or include them in record in the prior proceeding is a relevant backstory.

**B. The exhibits, which Staff seeks to strike as hearsay, are not offered for the truth of the matter asserted. The exhibits are offered to show the limits of the record on AIC's controls on credit card transactions in Docket 12-0293.**

Staff also argues that the data responses from Docket 12-0293 are “inappropriate hearsay and should be stricken.” (Staff Motion, ¶ 7.) Staff claims that Ms. Voiles selectively included the opinions of a witness that Staff is now unable to cross-examine, and that Ms. Voiles does not expressly state that she has knowledge of the responses attached to her testimony. (*Id.* at ¶¶ 7-8.) The premise of Staff's objection, however, is flawed. The statements contained in the data responses (Ameren Exs. 1.2 and 1.3) are not being offered to prove the truth of the matter being asserted therein. Indeed, Ms. Voiles' testimony does not quote or refer to the substance of any particular statements contained in these data responses. As Ms. Voiles' testimony indicates, the responses were provided to show that AIC did provide some information to Staff in Docket 12-0293 on the procedures for reporting and approving credit card purchases—information that AIC did not have the opportunity to include in the record in Docket 12-0293, given that the concerns about AIC's procedures were first raised in the Proposed Order.

In any event, even if AIC were offering the data responses for the truth of the matter in the statements contained therein, by attaching the responses to her testimony, Ms. Voiles effectively acknowledges the responses, adopts them as part of her testimony, and subjects herself to cross-examination on their contents. This type of adoption commonly occurs.

### **III. CONCLUSION**

The challenged testimony and exhibits are not irrelevant. And they are not hearsay. They are offered to show the limits of the prior record and prior review of the controls on credit card usage and employee expense reporting that are at issue in this proceeding. The context provided by this backstory is helpful to the trier of fact and does not run afoul of the rules of evidence. Staff's Motion to Strike these statements and exhibits should be denied in its entirety.

Dated: November 22, 2013

Respectfully submitted,

Ameren Illinois Company  
d/b/a Ameren Illinois

/s/ Albert D. Sturtevant

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**CERTIFICATE OF SERVICE**

I, Albert D. Sturtevant, an attorney, certify that on November 22, 2013, I caused a copy of the foregoing *Ameren Illinois Company's Response to Staff's Motion to Strike* to be served by electronic mail to the individuals on the Commission's Service List for Docket 13-0075.

/s/ Albert D. Sturtevant

Attorney for Ameren Illinois Company